

ANDERSON EXHIBIT 4

Cardinal Health (Lyle Donald)

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -
4 IN RE: PHARMACEUTICAL) MDL No. 1456
5 INDUSTRY AVERAGE WHOLESAL) CIVIL ACTION
6 PRICE LITIGATION) 01-CV-12257-PBS
7)
8 THIS DOCUMENT RELATES TO)
9 THE CONSOLIDATED NEW YORK) Judge Patti B. Saris
10 COUNTY ACTIONS, THE CALIFORNIA)
11 ACTION, AND THE IOWA ACTION)
12 - - - - -
13 (cross captions appear on following pages)
14 "HIGHLY CONFIDENTIAL-FOR ATTORNEYS' EYES ONLY"
15 VIDEOTAPED DEPOSITION OF
16 CARDINAL HEALTH (DONALD LYLE)
17 Tuesday, July 22, 2008
18 9:07 o'clock a.m.
19 Jones Day
20 325 John H. McConnell Boulevard
Suite 600
Columbus, Ohio 43215
- - -
21 SHAYNA M. GRIFFIN
22 REGISTERED PROFESSIONAL REPORTER

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -
4 IN RE: PHARMACEUTICAL) MDL No. 1456

Cardinal Health (Lyle Donald)
2 A. The CHOICE HQ and the intelligence
3 software was a tool that was given to customers that
4 had the multiple stores, facilities, sites that
5 allowed them to accumulate this up into a -- lack of
6 better choice of words, a sales data warehouse. It's
7 a storage of sales data that they have access to.
8 It's not a web-based -- I'm sorry. It's not an
9 ordering platform, it is a sales database, for the
10 most part.

11 Q. Okay. Would the ordering platform for
12 almost all of the customers be CHOICE, just
13 CardinalCHOICE itself?

14 A. At what point in time are you referring
15 to?

16 Q. I'm talking about over the years up to the
17 present.

18 A. The evolution? What you have is you
19 have -- you know, you can call an order in. You can
20 use the -- you could have used the CardinalCHOICE or
21 the Cardinal.com. There is EDI ordering that the
22 customers utilize. There was the Telxon or handheld

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1 device that you would hook up to a phone that allowed
2 it to transmit over the phone. You could call in
3 and -- over the past number of years and do IVR or
4 the voice-activated, placing the order through that
5 on a telephone, using the phone to key in your order.
6 So those were the methods of placing your orders.

7 Q. Okay. And is it true that Cardinal has

Cardinal Health (Lyle Donald)
8 sought to encourage pharmacies to utilize the
9 pharmacy operation software in ascertaining which
10 products to order?

11 MS. HANSEN: Objection to form.

12 A. Correct.

13 Q. Okay. I'm going to be focusing a lot of
14 my questions now on the pharmacies' use of the
15 software in determining what to order as opposed to
16 the technical logistics of how the order is placed.
17 Okay?

18 A. Okay. Uh-huh.

19 Q. Is it true that over the years Cardinal
20 has offered these tools to pharmacies to assist the
21 pharmacies in making the most financially beneficial
22 decision possible in selecting a drug?

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1 MS. HANSEN: Objection. Form.

2 MR. STEPHENS: Objection as to form.

3 A. Yes.

4 Q. And as a part of that process, has
5 Cardinal provided AWP information to pharmacies?

6 A. Yes.

7 Q. And is it true that the AWPs have been
8 shared because they serve as a gauge of
9 pharmaceutical drug reimbursement by third parties,
10 including Medicaid?

11 MS. HANSEN: Objection to form. Lack of
12 foundation.

13 A. Yes.

Cardinal Health (Lyle Donald)

8 Q. Is it a fairly new occurrence or is it
9 likely that it's been going on for several years?

10 A. Well, I'm going to assume this is from
11 2002, so I'll guess it's been going on for a number
12 of years.

13 Q. So at least back to 2001, 2002, and
14 potentially earlier?

15 A. Yes.

16 Q. Then the first bullet under this "Managing
17 the Program" section on the right-hand side is titled
18 "Competitive Analyses"; correct?

19 A. Yes.

20 Q. What -- what is meant by that reference?

21 A. What is meant by that reference is
22 utilizing any strategic information we have on other

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1 competitors' programs and doing analysis between ours
2 and theirs.

3 Q. So in this context, you're talking about
4 Cardinal as Cardinal competes and providing
5 information to pharmacies with other wholesalers such
6 as McKesson or AmerisourceBergen; correct?

7 A. Yes, correct.

8 Q. And is it your understanding that these
9 other wholesalers do also share information through
10 software such as pharmacy operation tools like
11 Cardinal?

12 MS. HANSEN: Objection to form.

13 A. Yes.

Cardinal Health (Lyle Donald)
14 Q. And those wholesalers also are assisting
15 pharmacies throughout America in evaluating which
16 generics are most profitable to purchase; correct?

17 MS. HANSEN: Same objections.

18 A. Yes.

19 Q. Including an evaluation of AWP; correct?

20 MS. HANSEN: Same objections.

21 BY MR. ANDERSON:

22 Q. To the best of your knowledge.

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1 A. Yes.

2 Q. All right. Now, looking on "Managing the
3 Program" section, the third bullet on the right-hand
4 side reads "Medicaid Eligibility."

5 Did I read that correctly?

6 A. Yes, sir.

7 Q. Why is Medicaid eligibility for a drug
8 product important to the CardinalSOURCE program?

9 A. In order for them to be reimbursed it has
10 to be approved by Medicaid.

11 Q. And is reimbursement for a generic drug
12 important in the sales of that drug?

13 A. Yes.

14 Q. Have you experienced customers' complaints
15 about a generic drug not being eligible for
16 reimbursement by a Medicaid program?

17 MS. HANSEN: Objection to form.

18 A. Personally, no.

19 Q. Have you heard that Cardinal from time to

Cardinal Health (Lyle Donald)
14 until prior to '94 in your position here today as the
15 Cardinal designee?
16 A. whether all of these were in there --
17 since this is a '95 document, I will say yes.
18 Q. And still to this day, Cardinal offers
19 spread evaluation tools to pharmacies; correct?
20 A. In CardinalCHOICE.
21 Q. Yes.
22 A. I am not aware of Cardinal.com having the

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1 spread.
2 Q. Okay. But pharmacies still utilize
3 CardinalCHOICE, don't they?
4 A. A small portion, yes.
5 Q. Most of them have transitioned over?
6 A. Yes.
7 Q. Is it true that in the context of
8 Cardinal's software tools evaluating spread for
9 pharmacies that AWP was part of that analysis?
10 MS. HANSEN: Objection to form.
11 A. Yes.
12 Q. So in a particular instance on a given
13 pharmacy's choice of a generic drug, they may be able
14 to evaluate the spread of Mylan's product as compared
15 to the competitive Barr product using Cardinal's
16 software; correct?
17 MS. HANSEN: Objection to form.
18 MR. STEPHENS: Objection as to form.
19 A. In CardinalCHOICE, yes.

Cardinal Health (Lyle Donald)
20 Q. And that same type of analysis would be
21 something that pharmacies can conduct on any
22 therapeutically equivalent generic drug class?

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1 MS. HANSEN: Objection to form.
2 A. They can do it on any item. It's a spread
3 analysis that gives it to it. So it would be for any
4 item.
5 Q. Oh, so it's on an NDC level?
6 A. What it does is you have the ability to
7 bring up alternatives based on spread depending on
8 how you configure your CardinalCHOICE systems work.
9 So it will go through the system and determine for
10 that GCN or NDC, which is part of the NDC number,
11 what has the best spread.
12 Q. And the GCN that you just referenced is an
13 acronym --
14 A. Yeah.
15 Q. -- that describes a therapeutic class of
16 generics?
17 A. Yes, sir.
18 Q. So it is true that over the years
19 pharmacies could use this software and ascertain
20 which generic drug in a therapeutic class have the
21 best spread?
22 A. Yes, sir.

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1 MS. HANSEN: Objection. Form.

2 MR. ANDERSON: What's the objection with
3 that question?

4 MS. HANSEN: "Over the years." It's
5 vague. If you can make a time frame.

6 BY MR. ANDERSON:

7 Q. All right. From 1991 until today, the
8 CardinalCHOICE software has enabled pharmacies to
9 ascertain best spread within a given generic
10 therapeutic class; correct?

11 A. I can answer from 1994, yes.

12 Q. All right. And you realize you're
13 designated back to '91, and as the designee, it's
14 your best information that that capability existed
15 prior to '94; correct?

16 A. Yes.

17 Q. Now, if you could flip, sir, to the page
18 that's Bates labeled ABT005777. And, again, this is
19 in Lyle Exhibit 8, also marked as Erick Exhibit 18.

20 And up at the top it reads, "Media
21 Marketing/Healthtouch"; correct?

22 A. Yes, sir.

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1 Q. And looking at the last primary bullet,
2 that bullet reads, "Media/Promotional Opportunities
3 for Manufacturers"; correct?

4 A. Yes, sir.

5 Q. And then the very first subcategory reads
6 "CardinalCHOICE"; correct?

5 Cardinal Health (Lyle Donald)
A. I am not aware of that.

6 Q. Okay. And just one follow-up question to
7 Mr. Henderson's questions about state Medicaid
8 programs not being customers of Cardinal. Is it true
9 that state Medicaid programs, because they are not
10 customers of Cardinal and never have been, have never
11 had access to Cardinal's software purchasing tools
12 such as CardinalCHOICE, CardinalCHOICE HQ,
13 eprocurement, et cetera?

14 MS. HANSEN: Objection to form.

15 A. To my knowledge, they have not.

16 MR. ANDERSON: Thank you.

17 MR. JULIE: I object. No foundation.

18 MR. ANDERSON: Pardon?

19 MR. JULIE: I object. No foundation.

20 MR. ANDERSON: I'll pass the witness.

21 MS. HANSEN: Does anyone on the phone have
22 questions?

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1 MR. LYNN: This is Paul Lynn. I do not.

2 MR. LIBMAN: This is Mr. Libman. I have
3 no further questions.

4 MR. STEPHENS: All right. Well, then if
5 there are no more questions, our witness is going to
6 read and sign the transcript. So we'll deal with
7 that when it comes. Other than that, we'll close the
8 deposition.

9 THE VIDEOGRAPHER: End of deposition. Off
10 the record at 1637.